

Auth.ID: OUR708

Contact Name: JACKASS FLATS ROAD
ASSOCIATION

Expiration Date: 12/31/2038

Use Code: 753

FS-2700-4b (V. 01/2014)

OMB No. 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
FOREST ROAD SPECIAL USE PERMIT
AUTHORITY:**

FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

JACKASS FLATS ROAD ASSOCIATION of PO BOX 1028 RIDGWAY, CO 81432 (hereafter called the holder) is hereby authorized to use the following described National Forest System Road (NFSR) within the Uncompahgre National Forest for the following purposes:

Use of NFSR 871.2a Jackass Flats road crossing portions of National Forest System land, approximately 12 feet wide x 0.26 miles long, native surface road, for domestic ingress/egress to member residence (currently one home) of the Association, and proposed home construction for one additional home. Access would take place from May through November of each year. No improvements to the road beyond routine maintenance, and no snowplowing/removal would be permitted.

The road covered by this permit is located in the County of Ouray, State of Colorado, and is shown on the attached map and identified as follows: Sec. 18 and 19, T. 44 N., R. 7 W., N.M.P.M.

This permit is made subject to the following terms, provisions, and conditions:

1. This permit is subject to all existing easements and valid rights existing on this date.
2. Holder shall comply with applicable Federal or State law and shall comply with State standards for public health and safety, environmental protection, and siting construction, operation, and maintenance if those standards are more stringent than applicable Federal standards.
3. The holder shall cut no timber except as authorized by construction stipulations or maintenance agreements.
4. Holder shall pay the United States for all injury, loss, or damage, including fire suppression costs, in accordance with Federal and State laws and regulations.
5. Holder shall indemnify the United States for any and all injury, loss, or damage, including fire suppression costs the United States may suffer as a result of claims, demands, losses, or judgments caused by the holder's use or occupancy under this permit.

6. Holder shall pay annually in advance a sum determined by the Forest Service to be the fair market value of the use authorized by this permit. The initial payment is set at \$147.83 for the remainder of the calendar year. Payments for each subsequent calendar year shall be the amount of \$147.83 adjusted using the Implicit Price Deflator-Gross National Product index (IPD-GNP), or other factor selected by the Forest Service, to reflect more nearly the current fair market value of the use. At intervals to be determined by certain changes in the indexes used to establish the linear rights-of-way fee schedule, the fee shall be reviewed and adjusted as necessary to assure that it is commensurate with the value of the rights and privileges authorized. In addition to the annual payment, the holder shall pay its proportionate share of road costs prior to using the road for commercial use. Failure of the holder to pay the annual payment, late charges, or other fees or charges shall cause the permit to terminate.

7. Late Payment Interest, Administrative Costs and Penalties. Pursuant to 31 U.S.C. 3717, et seq., interest shall be charged on any fee amount not paid within 30 days from the date the fee or fee calculation financial statement specified in this authorization becomes due. The rate of interest assessed shall be the higher of the rate of the current value of funds to the U.S. Treasury (i.e., Treasury tax and loan account rate), as prescribed and published by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins annually or quarterly or at the Prompt Payment Act rate. Interest on the principal shall accrue from the date the fee or fee calculation financial statement is due.

In the event the account becomes delinquent, administrative costs to cover processing and handling of the delinquency will be assessed.

A penalty of 6 percent per annum shall be assessed on the total amount delinquent in excess of 90 days and shall accrue from the same date on which interest charges begin to accrue.

Payments will be credited on the date received by the designated collection officer or deposit location. If the due date for the fee or fee calculation statement falls on a non-workday, the charges shall not apply until the close of business on the next workday.

Disputed fees are due and payable by the due date. No appeal of fees will be considered by the Forest Service without full payment of the disputed amount. Adjustments, if necessary, will be made in accordance with settlement terms or the appeal decision.

If the fees become delinquent, the Forest Service will:

Liquidate any security or collateral provided by the authorization.

If no security or collateral is provided, the authorization will terminate and the holder will be responsible for delinquent fees as well as any other costs of restoring the site to its original condition including hazardous waste cleanup.

Upon termination or revocation of the authorization, delinquent fees and other charges associated with the authorization will be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. Delinquencies may be subject to any or all of the following conditions:

Administrative offset of payments due the holder from the Forest Service.

Delinquencies in excess of 60 days shall be referred to United States Department of Treasury for appropriate collection action as provided by 31 U.S.C. 3711 (g), (1).

The Secretary of the Treasury may offset an amount due the debtor for any delinquency as provided by 31 U.S.C. 3720, et seq.)

8. Holder shall pay the Forest Service for its share of maintenance cost or perform maintenance, as determined by the Forest Service for all commercial use of the road. The maintenance obligation of the holder shall be proportionate to total use and commensurate with its use. Any maintenance to be performed by the holder shall be authorized by and shall be performed in accordance with an approved maintenance plan. In the event the road requires maintenance, restoration, or reconstruction work to accommodate the holder's needs, the Forest Service shall authorize the work required in the same manner as provided herein for maintenance or in clause 10 for reconstruction. The holder shall perform such work at its own expense.

9. The exercise of the use permitted shall be subordinate to any easement on said road subsequently granted by the United States to a public road agency for operation as a public highway.

10. Any construction or reconstruction of the road shall be in accordance with plans, specifications, and written stipulations approved by the Forest Service prior to beginning such construction or reconstruction.

11. The United States shall have unrestricted use of the road and right-of-way for all purposes deemed necessary or desirable in connection with the protection, administration, management, and utilization of Federal lands or resources, and it shall have the right alone to extend rights and privileges for use of the right-of-way and road thereon to States and local subdivisions thereof and to other users including members of the public, except users of land or resources owned or controlled by the holder. The Forest Service shall control such use to avoid unreasonable interference with use of the road by the holder.

12. The Forest Service may relocate the road to the extent necessary to accommodate the management needs of the National Forests.

13. This permit may be terminated or suspended upon breach of any of the conditions herein, or revoked at the discretion of the Regional Forester.

14. Unless sooner terminated in accordance with the provisions of the permit, or revoked by the Regional Forester, this permit shall expire and terminate on 12/31/2038. Prior to expiration of this permit, the holder may apply for a new permit that would renew the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit.

15. Nonexclusive Use and Public Access. Unless expressly provided for in additional terms, use of the permit area is not exclusive. The Forest Service reserves the right to use or allow others to use any part of the permit area, including roads, for any purpose, provided, such use does not materially interfere with the holder's authorized use. A final determination of conflicting uses is reserved to the Forest Service.

16. Forest Service Right of Entry and Inspection. The Forest Service has the right of unrestricted access of the permitted area or facility to ensure compliance with laws, regulations, and ordinances and the terms and condition of this permit.

17. Liability. For purposes of this section, "holder" includes the holder's heirs, assigns, agents, employees, and contractors.

A. The holder assumes all risk of loss to the authorized improvements.

B. The holder shall indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the holder's use or occupancy of the property. The holder's indemnification of the United States shall include any loss by personal injury, loss of life or damage to property in connection with the occupancy or use of the property during the term of this permit. Indemnification shall include, but is not limited to, the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs. This paragraph shall survive the termination or revocation of this authorization, regardless of cause.

C. The holder has an affirmative duty to protect from damage the land, property, and interests of the United States.

D. In the event of any breach of the conditions of this authorization by the holder, the authorized officer may, on reasonable notice, cure the breach for the account at the expense of the holder. If the Forest Service at any time pays any sum of money or does any act which will require payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages shall, at the election of the Forest Service, be deemed to be additional fees hereunder and shall be due from the holder to the Forest Service on the first day of the month following such election.

E. With respect to roads, the holder shall be proportionally liable for damages to all roads and trails of the United States open to public use caused by the holder's use to the same extent as provided above, except that liability shall not include reasonable and ordinary wear and tear.

F. The Forest Service has no duty to inspect the permit area or to warn of hazards and, if the Forest Service does inspect the permit area, it shall incur no additional duty or liability for identified or non-identified hazards. This covenant may be enforced by the United States in a court of competent jurisdiction.

18. Members of Congress. No Member of or Delegate to Congress or Resident Commissioner shall benefit from this permit either directly or indirectly, except when the authorized use provides a general benefit to a corporation.

19. Appeals and Remedies. Any discretionary decisions or determinations by the authorized officer are subject to the appeal regulations at 36 CFR 214, or revisions thereto.

20. Assignability. This authorization is not assignable or transferable. If Holder, through death, voluntary transfer, enforcement of contract, foreclosure, or other valid legal proceeding shall cease to be owner of the above described real property accessed by the authorized road, this authorization shall terminate.

21. Superior Clauses. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provision thereof, the preceding printed clauses shall control.

22. Termination for Nonpayment (R2-A102). This authorization shall automatically terminate without the necessity of prior notice when land use-fees are 90 calendar days from the due date in arrears. The holder shall remain responsible for the delinquent fees.

23. Responsibility for Damage to United States Property (R2-B-106). The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs, damage to government-owned improvements covered by this permit, and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. "Hazardous material" shall mean any hazardous substance, pollutant, contaminant, hazardous waste, oil, and/or petroleum product, as those terms are defined under any federal, state, or local law or regulation.

24. Operation and Maintenance Plan (R2-C102). An Operation and Maintenance Plan, described as Exhibit A, is attached hereto and made a part hereof.

25. Use of Certified Noxious Weed Free Hay, Straw or Mulch (R2-X107). Only hay, grain, straw, hay cubes or other forage or mulch certified as noxious weed free or noxious weed seed free by an authorized State Department of Agriculture official or designated county official may be used. Each individual bale container, sack, etc., must be tagged or marked as a certified weed free product and show current documentation from a state certification process which meets or exceeds the North American Weed Free Forage (NAWFF) or comparable certification standard.

The following are exempted from this requirement:

1. Pelletized feed one inch in diameter or smaller or steam-rolled feed grain products;
2. Persons with a permit specifically authorizing the prohibited act;
3. Transporting straw, hay or mulch on Federal, State, and County roads that are not National Forest System roads and trails.

26. Noxious Weed and Exotic Plant Prevention and Control (D-10).

The holder shall be responsible for the prevention and control of noxious weeds and exotic plants arising from the authorized use. For purposes of this clause, noxious weeds and exotic plants include those species recognized as such by Federal, State, or local agency. The holder shall follow prevention and control measures required by Federal, State, or local agency. When determined to be necessary by the Authorized Officer, the holder shall develop a plan for noxious weed and exotic plant prevention and control. These plans must have prior written approval from the Authorized Officer and, upon approval, shall be attached to this permit as an appendix.

27. Archaeological-Paleontological Discoveries(X-17).

The holder shall immediately notify the Authorized Officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave these discoveries intact and in place until directed otherwise by the Authorized Officer. Protective and mitigative measures specified by the Authorized Officer shall be the responsibility of the holder.

28. Surveys, Land Corners (D-4).

The holder shall protect, in place, all public land survey monuments, private property corners, and Forest boundary markers. In the event that any such land markers or monuments are destroyed in the exercise of the privileges permitted by this authorization, depending on the type of monument destroyed, the holder shall see that they are reestablished or referenced in accordance with (1) the procedures outlined in the "Manual of Instructions for the Survey of the Public Land of the United States," (2) the specifications of the county surveyor, or (3) the specifications of the Forest Service.

Further, the holder shall cause such official survey records as are affected to be amended as provided by law. Nothing in this clause shall relieve the holder's liability for the willful destruction or modification of any Government survey marker as provided at 18 U.S.C. 1858.

29. Removal and Planting of Vegetation and Other Resources (D-5).

This permit does not authorize the cutting of timber or other vegetation. Trees or shrubbery may be removed or destroyed only after the Authorized Officer or the Authorized Officer's designated representative has approved in writing and marked or otherwise identified what may be removed or destroyed. Timber cut or destroyed shall be paid for at current stumpage rates for similar timber in the Uncompahgre National Forest. The Forest Service reserves the right to dispose of the merchantable timber to those other than the holder at no stumpage cost to the holder. Unmerchantable material shall be disposed of as directed by the Authorized Officer.

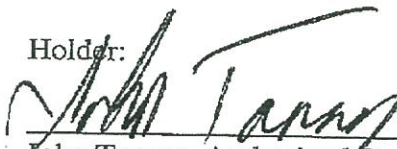
Trees, shrubs, and other plants may be planted within the permit area with prior written approval of the Authorized Officer.

30. Superseded Authorization (X-18).

This authorization supersedes an authorization designated OUR560.

In Witness Whereof, the parties hereto have caused this permit to be duly executed on this 19th day of February, 2020.

Holder:


John Tanner, Authorized Representative
Jackass Flats Road Association

By:

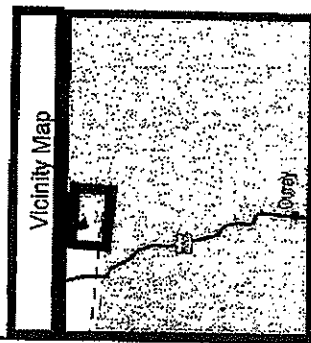
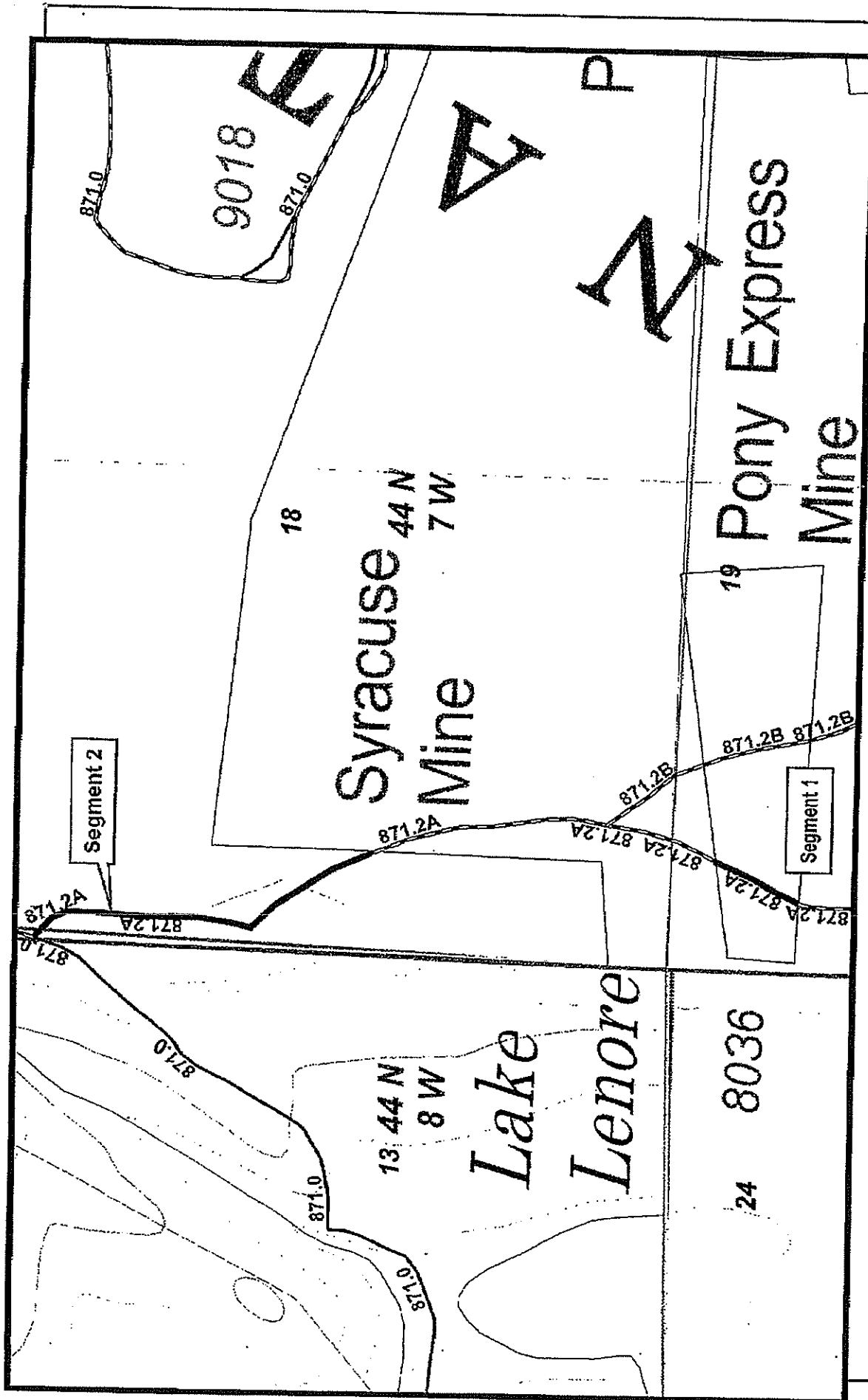

USDA Forest Service
Chad Stewart
Forest Supervisor
Grand Mesa, Uncompahgre Gunnison Nat'l Forest

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.



Jackass Flats OUR 708 Authorized Road Segments

Legend

S_USA.BasicOwnership
OWNERCLASSIFICATION

- ☐ NON-FS
- ☐ UNPARTITIONED RIPARIAN INTEREST
- ☐ USDA FOREST SERVICE

Jackass Flats OUR708 Authorized Road Segments
Greg Van Oosbree Ouray Ranger District 10/29/18

Disclaimer

The USDA Forest Service makes no warranty, expressed or implied regarding the data displayed on this map, and reserves the right to correct, update, modify, or replace this information without notification.



EXHIBIT A
OUR708
Jackass Flats Road Association
Forest Road Special Use Permit
Operation and Maintenance Plan

Construction Stipulations during New Home Construction

- a. The Holder will develop and submit to the FS, engineered plans for any needed road reconstruction, erosion control, storm water management control measures and reclamation along the Jackass Flats Road at least 90 days prior to commencement of the construction project. These measures will be established and maintained throughout construction by the Holder. A bond and a Road Use Permit may be required prior to any reconstruction work commencing on the road.
- b. Maintenance of the road during construction activities is the responsibility of the Holder; maintenance will be performed concurrently.
- c. Heavy equipment travel is permissible from May-November 15 of each year. No heavy equipment travel on the Jackass Flats Road is authorized from November 16-April 30 of each year.
- d. The Holder or their contractor(s) will power-wash all equipment including lowboys or other trailers, to remove noxious weed seeds. Equipment shall be cleaned prior to entering the forest, and is subject to inspection by the Forest Service representative. Please notify the Ouray Ranger District 48 hours in advance for possible equipment inspection prior to entering NFS land.
- e. The Holder or their contractor shall immediately notify the Forest Service of all antiquities or other objects of historic or scientific interest, including but not limited to historic or pre-historic ruins or artifacts discovered in connection with the project. These discoveries shall remain intact and in place until directed otherwise by the Forest Service.

Routine Operation and Maintenance

Routine road maintenance work includes the following:

- a) Removal of slides, boulders, fallen timber, overhanging brush, and other material obstructing safe road sight distance.
 - b) Keeping drainage channels, ditches, culverts, and rolling dips clear of debris and functioning as intended.
 - c) Repairing culverts or other road structures.
 - d. Cross drainage at existing natural drainages, and particularly on the south side of the older, vegetated debris fan will be maintained to clear the road of water and reduce erosion of the road surface.
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f. The Holder shall insure that road use and maintenance does not impede access to the unpatented Salto 7 mining operations on NFS land.

g. Berms: No new berms or addition of material to existing berms shall occur. Existing berms shall be removed unless authorized by the District Roads Engineer. In the event existing berms are authorized, the engineer shall identify the maximum height and locations for relief ditches.

h. Noxious weed prevention and control: Holder shall use only certified weed free straw for erosion control/reclamation.

i. Snow removal and snow plowing is not authorized under this special use permit.

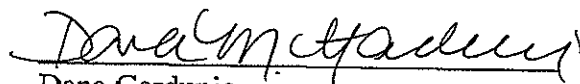
j. No private signs shall be installed along the road authorized under this permit.



Jackass Flats Road Association
John Tanner
Authorized Representative

Date

10/15/19



Dana Gardunio
Ouray District Ranger
Grand Mesa Uncompahgre Gunnison NF

Date

10/30/19